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7

8 **BEFORE THE**
9 **BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) NO. AC-96-10
Against:)
12)
MARY M. LEAL) DEFAULT DECISION AND
13 P. O. Box 20068) ORDER OF THE BOARD
San Jose, CA 95160)
14)
Certified Public Accountant) [Gov. Code § 11520]
15 Certificate No. CPA 35852,)
16 Respondent.)

17
18 **STATUTES AND REGULATIONS**

19 1. The California State Board of Accountancy of the
20 Department of Consumer Affairs ("Board") is authorized to revoke
21 respondent's Certified Public Accountant Certificate pursuant to
22 California Business and Professions Code section 5100, which
23 provides that the Board may revoke, suspend or refuse to renew
24 any permit or certificate issued by the Board.

25 2. California Government Code section 11506(b)
26 provides, in pertinent part, that the respondent shall be
27 entitled to a hearing on the merits if she files a notice of

1 defense, and any such notice shall be deemed a specific denial of
2 all parts of the accusation not expressly admitted. Failure to
3 file such notice shall constitute a waiver of respondent's right
4 to a hearing, but the agency in its discretion may nevertheless
5 grant a hearing.

6 3. California Government Code section 11520(a)
7 provides, in pertinent part, that if the respondent fails to file
8 a notice of defense or to appear at the hearing, the agency may
9 take action based upon the respondent's express admissions or
10 upon other evidence and affidavits may be used as evidence
11 without any notice to respondent.

12 4. Business and Professions Code^{1/} section 5100
13 authorizes the Board to impose discipline upon a licensee based
14 upon unprofessional conduct, including for the reasons specified
15 therein as well as for violations of the Accountancy Act or the
16 Board's rules and regulations.

17 5. Section 5050 provides that no person shall engage
18 in the practice of public accountancy in California unless the
19 person holds a valid permit to practice public accountancy issued
20 by the Board. Section 5051 sets forth the definition of "public
21 accountancy."

22 6. Section 5107 provides, in part, that the Board may
23 request the administrative law judge, as part of the proposed
24 decision in a disciplinary proceeding, to direct any holder of a
25 permit or certificate found in violation of section 5100(c) to

26
27 1. Every statutory reference hereinafter is to the
Business and Professions Code unless otherwise stated.

1 pay to the Board all reasonable costs of investigation and
2 prosecution of the case, including, but not limited to,
3 attorney's fees.

4 7. Under section 118, the suspension, expiration, or
5 forfeiture by operation of law of a license issued by the Board,
6 or its suspension, forfeiture, or cancellation by order of the
7 Board or by order of a court of law, or its surrender without the
8 written consent of the Board, shall not, during any period in
9 which it may be renewed, restored, reissued, or reinstated,
10 deprive the Board of its authority to institute or continue a
11 disciplinary proceeding against the licensee upon any ground
12 provided by law or to enter an order suspending or revoking the
13 license or otherwise taking disciplinary action against the
14 license on any such ground.

15 8. The Board's regulations, codified in Title 16 of
16 the California Code of Regulations^{2/}, require, in section 87(a)
17 that a licensee complete at least 80 hours of qualifying
18 continuing education during every two-year period immediately
19 preceding permit renewal.

20 Board Rule 89(a) requires that a licensee submit, with
21 a license renewal, a written statement, signed under penalty of
22 perjury attesting to the completion of the requisite number of
23 continuing education hours.

24 Board Rule 89(b) requires that a licensee, in order to
25

26 2. The Board's rules, codified at Title 16 of the
27 California Code of Regulations in sections 1-99, are hereinafter
referred to as "Board Rule." Thus, section 89 is Board Rule 89.

1 receive continuing education credit for attending a continuing
2 education course, obtain and retain for four years after renewal
3 a certificate of completion or its equivalent signed by the
4 course provider, disclosing required information set forth in the
5 rule.

6 Board Rule 89(f) provides, with regard to continuing
7 education, that a licensee's willful making of any false or
8 misleading statement, in writing regarding his or her continuing
9 education shall constitute cause for disciplinary action pursuant
10 to Code section 5100(f) of the Accountancy Act.

11 Board Rule 89.1(a) provides that the Board may request
12 licensees, selected on the basis of a statistical sampling, to
13 supply copies of selected financial reports issued during the
14 previous two years.

15 Board Rule 89.1(b) provides that the willful failure of
16 a licensee to comply with the Board's written request for a copy
17 of financial report(s), within 30 calendar days of the licensee's
18 receipt of that request, constitutes a violation of section
19 5100(f) of the Accountancy Act.

20 Board Rule 90(a) provides that a renewal applicant may
21 be granted either an extension of time to complete continuing
22 education requirements or an exception from continuing education
23 requirements, for the causes stated therein.

24 Board Rule 90(c) provides that the willful failure of a
25 licensee to complete applicable continuing education within a
26 specified extension of time shall constitute cause for
27 disciplinary action pursuant to section 5100(f) of the

1 Accountancy Act.

2 JURISDICTION AND FINDINGS OF FACT

3 Pursuant to its authority under Government Code section
4 11520, and based on the evidence before it, the Board finds that
5 the allegations contained in Accusation No. AC-96-10 are true.
6 Specifically, the Board finds that:

7 9. On September 24, 1982, the Board issued Certified
8 Public Accountant Certificate No. CPA 35852 to respondent. The
9 certificate expired on December 1, 1992, and remained expired
10 until it was renewed on or about February 22, 1995. The renewal
11 request was made on two forms, for the respective two-year
12 renewal periods for which it was delinquent.

13 The form for the 1992/1994 renewal period, submitted on
14 or about February 22, 1995, contains a statement signed under
15 penalty of perjury claiming the completion of 82 hours of
16 continuing education courses (which would have been performed
17 during the preceding two years, that is, during the Dec. 1990 -
18 Nov. 1992 period).

19 In or about January 1995, the licensee requested and
20 received an extension for the completion of the continuing
21 education requirements for the 1994/1996 renewal period. The
22 extension was granted until May 31, 1995, subject to the
23 licensee's submission of her renewal application and fee.

24 On or about February 22, 1995, the licensee submitted
25 the form for the 1994/1996 renewal period, with no indication
26 regarding continuing education. The Board's files reflect that
27 the licensee failed to submit the completed Extension Compliance

1 Form evidencing completion of the required 80 hours by June 10,
2 1995. The extension granted pursuant to Board Rule 90 expired
3 May 31, 1995. The licensee has failed to perfect the license
4 renewal, either "with ce³" or "without ce."

5 10. On or about July 30, 1996, complainant Carol B.
6 Sigmann, in her official capacity as Executive Officer of the
7 Board, filed Accusation No. AC-96-10 against Mary M. Leal
8 ("respondent"). A copy of the Accusation is attached hereto as
9 Exhibit A and incorporated herein.

10 11. On or about July 30, 1996, Patricia A. Mota, an
11 employee of the Office of the Attorney General, sent by certified
12 mail a copy of Accusation No. AC-96-10, Statement to Respondent,
13 Government Code sections 11507.5, 11507.6, and 11507.7, the
14 Notice of Defense form, and a Request for Discovery, to
15 respondent's address of record with the Board which was and is
16 P.O. Box 20068, San Jose, CA 95160. In or about August 1996, the
17 green Domestic Return Receipt was returned to the Office of the
18 Attorney General by the U.S. Postal Service. The receipt appears
19 to have been signed by the respondent in Box 6 marked "Signature
20 (Addressee or Agent)." The above-described service was effective
21 as a matter of law pursuant to the provisions of California
22 Government Code section 11505, subdivision (c).

23 12. Respondent failed to file a Notice of Defense
24 within 15 days after service upon her of the Accusation and
25 therefore waived her right to a hearing on the merits of

26
27 3. CE is an abbreviation for prescribed continuing
education.

1 Accusation No. AC-96-10.

2 13. Mariners' Plaza Office Condominium Association
3 Audit. Respondent's performance of an audit for Mariners' Plaza
4 Office Condominium Association ("Mariners'") as of December 31,
5 1994 and 1993 and issuance of an unqualified audit opinion on
6 Mariners' financial statements contained extreme departures from
7 the standard of practice of public accountancy, including, but
8 not limited to, failures in properly planning, and in documenting
9 planning of, the audit (AU §§ 150.02; 311.03; 339.05); failure to
10 obtain/document understanding of internal control structure and
11 the assessed level of control risk (AU §§ 319.26 & .39.);
12 failure to obtain sufficient competent evidential matter (AU §§
13 150.02; 339.05.); failure to perform analytical procedures in the
14 planning and overall review stages of the audit (AU § 329.01-
15 .04.); failure to obtain and include in working papers a
16 representation letter from management and an inquiry of client's
17 lawyer concerning litigation, claims, and assessments (AU §§
18 333.01, 337.04-.05.); and failure to exercise due professional
19 care (230.01-.04.).

20 14. In connection with the Mariners' audit, respondent
21 failed to issue a report which conforms to professional standards
22 upon completion of an audit of financial statements (failed to
23 present required GAAP note disclosures--Audit Guide for CIRA, §§
24 4.05-4.22 and 4.30).

25 15. 58 El Camino Condominium Association.
26 Respondent's performance of an audit for 58 El Camino Condominium
27 Association ("El Camino") as of December 31, 1994 and 1993,

1 contained extreme departures from the standard of practice of
2 public accountancy, including, but not limited to, failures in
3 properly planning, and documenting planning of, the audit (AU §§
4 150.02; 311.03; 339.05); failure to obtain/document understanding
5 of internal control structure and the assessed level of control
6 risk (AU §§ 319.26 & .39.); failure to obtain sufficient
7 competent evidential matter (AU §§ 150.02; 339.05.); failure to
8 perform analytical procedures in the planning and overall review
9 stages of the audit (AU § 329.01-.04.); failure to obtain and
10 include in her working papers a representation letter from
11 management (AU § 333.01.); failure to obtain and include in her
12 working papers an inquiry of client's lawyer (AU § 337.04-.05.);
13 and failure to exercise due professional care (230.01-.04.).

14 16. In connection with the El Camino audit, respondent
15 failed to issue a report which conforms to professional standards
16 upon completion of an audit of financial statements (failed to
17 present required GAAP note disclosures--Audit Guide for CIRA,
18 §§ 4.05-4.22 and 4.30).

19 17. Continuing Education - 1992/1994. Respondent, in
20 renewing her license for the period 1992/1994 in February 1995,
21 signed a statement under penalty of perjury on February 21, 1995,
22 that she had completed 82 hours for the renewal period ended and
23 that she would maintain verification records related thereto for
24 a period of four years, whereas, in truth and in fact,
25 she failed to maintain the required records, and is unable to
26 recall actually completing the required continuing education.

27 18. Continuing Education - 1994/1996. Respondent

1 failed to complete 80 hours of applicable continuing education
2 for her 1994/1996 renewal period, having been granted an
3 extension (from December 1, 1994 to May 31, 1995) to do so.

4 19. Failure to Provide Information to Board. In
5 1988/89, respondent was selected to submit an audit report and
6 financial statements for review under the provisions of Board
7 Rule 89.1. As a follow-up to that process, which found
8 deficiencies in respondent's submissions and rated them
9 "Substandard," the respondent was requested to submit the
10 subsequent year's financial report.

11 During the period of time from December 12, 1989
12 through April 30, 1991, respondent was notified in writing on
13 five separate occasions to submit the subsequent year's audit
14 report and financial statements for review, and no response was
15 forthcoming from the licensee until April 30, 1991. After
16 finding the submissions "Marginal," sixteen hours of continuing
17 education related to financial statement disclosures were
18 recommended.

19 Respondent was again requested, beginning in August
20 1992, and continuing until April 1993, to submit another audit
21 report and financial statements for review. No response was
22 received by the Board to its two written notices to the
23 respondent.

24 20. Unauthorized Practice. During the period of time
25 from December 1, 1992 to February 22, 1995, respondent practiced
26 public accountancy within the meaning of section 5051 during a
27 period of time when her license was expired, on occasions known

1 to respondent but unknown to the complainant, except that the
2 complainant is aware of the two audit reports referenced herein,
3 which were issued in April 1994.

4 21. Finding of Board Costs. At the time of this
5 decision, the Board's costs of investigation and prosecution,
6 with reference to cost recovery under section 5107, in this case
7 are \$_____.

8 DETERMINATION OF ISSUES

9 1. Respondent is subject to disciplinary action
10 pursuant to section 5100 of the California Business and
11 Professions Code as established in the jurisdictional findings in
12 paragraphs numbers 9 through 12, above.

13 2. Respondent is subject to disciplinary action
14 pursuant to section 5100(c) of the California Business and
15 Professions Code on the grounds of gross negligence by reason of
16 the Findings of Fact numbers 13 through 16, in that, with respect
17 to both of the named audits and with respect to each of them,
18 respondent's conduct constitutes an extreme departure from the
19 standard of practice, and cause for revocation has thereby been
20 established, separately and severally.

21 3. Respondent is subject to disciplinary action
22 pursuant to sections 5100 and 5062 of the California Business and
23 Professions Code on the grounds of unprofessional conduct by
24 reason of the Findings of Fact numbers 14 and 16 because of her
25 failure to observe professional standards with respect to the
26 issuance of each of the subject audit reports, and cause for
27 revocation of respondent's license has thereby been established,

1 separately and severally.

2 4. Respondent has engaged in unprofessional conduct
3 under section 5100(f) of the California Business and Professions
4 Code in conjunction with Board Rule 89(b) for her failure to
5 maintain and make available her continuing education records for
6 the 1992/1994 period by reason of the Findings of Fact numbers 17
7 above, and cause for revocation has been established.

8 5. Respondent has engaged in unprofessional conduct
9 under section 5100(f) of the California Business and Professions
10 Code in conjunction with Board Rule 87(a), 89(a) and 89(f) in
11 that she made a false statement in her license renewal for the
12 1992/1994 renewal period, by reason of the Findings of Fact
13 numbers 9 and 17, above, and cause for revocation has thereby
14 been established.

15 6. Respondent has engaged in unprofessional conduct
16 under section 5100(f) of the California Business and Professions
17 Code in conjunction with Board Rule 89.1(a) and (b) for failure
18 to respond to the Board as set forth in Finding of Fact number
19 19, above, and cause for revocation has thereby been established.

20 7. Respondent is subject to disciplinary action
21 pursuant to Board Rule 90(a) and (c) in conjunction with section
22 5100(f) of the California Business and Professions Code for the
23 willful violation of a Board Rule, by failing to complete her
24 continuing education during the extension granted as set forth in
25 Finding of Fact number 18, and cause for revocation has thereby
26 been established.

27 8. Respondent is subject to disciplinary action

1 pursuant to Board Rule 87(a) in conjunction with sections 5050,
2 5051 and 5100(f) of the California Business and Professions Code
3 for the unauthorized practice of public accountancy, by reason of
4 the Findings of Fact numbers 9, 18 and 20, and cause for
5 revocation has thereby been established.

6 ORDER OF THE BOARD OF ACCOUNTANCY

7 Certified Public Accountant Certificate number CPA
8 35852, heretofore issued to respondent Mary M. Leal, is hereby
9 revoked. An effective date of November 4th, 1996, has been
10 assigned to this Order.

11 Pursuant to California Government Code section 11520,
12 subdivision (b), respondent is entitled to make any showing by
13 way of mitigation; however, such showing must be made in writing
14 to the Board of Accountancy, 2000 Evergreen Street, Suite 250,
15 Sacramento, California 95815, prior to the effective date of this
16 decision.

17 Made this 4th day of October, 1996.

18 

19 _____
20 Robert J. Shackleton, President
21 Board of Accountancy
22 Department of Consumer Affairs

23 C:\JEANNE\LEAL.DEF
24 (9/4/96)
25
26
27

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Attorneys for Complainant

**BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)	NO. AC-96-10
Against:)	
)	ACCUSATION
MARY M. LEAL)	
P. O. Box 20068)	
San Jose, CA 95160)	
)	
Certified Public Accountant)	
Certificate No. 35852)	
)	
Respondent.)	

Complainant Carol Sigmann, as cause for disciplinary
action, alleges:

1. Complainant is the Executive Officer of the
California Board of Accountancy ("Board") and makes and files
this accusation solely in her official capacity.

LICENSE INFORMATION

2. On or about September 24, 1982, Certified Public
Accountant Certificate No. 35852 was issued by the Board to Mary
M. Leal ("respondent"). The certificate expired on December 1,
1992, and remained expired until it was renewed on or about

1 February 22, 1995. The renewal request was made on two forms,
2 for the respective two-year renewal periods for which it was
3 delinquent.

4 The form for the 1992/1994 renewal period, submitted on
5 or about February 22, 1995, contains a statement signed under
6 penalty of perjury claiming the completion of 82 hours of
7 continuing education courses (which would have been performed
8 during the preceding two years, that is, during the December 1990
9 - November 1992 period) (cf. Bus. & Prof. Code sections 5070.5
10 and 5070.6).

11 In or about January 1995, the licensee requested and
12 received an extension for the completion of the continuing
13 education requirements for the 1994/1996 renewal period. The
14 extension was granted until May 31, 1995, subject to the
15 licensee's submission of her renewal application and fee.

16 The licensee submitted, on or about February 22, 1995,
17 the form for the 1994/1996 renewal period, with no indication
18 regarding continuing education. The Board's files reflect that
19 the licensee failed to submit the completed Extension Compliance
20 Form evidencing completion of the required 80 hours by June 10,
21 1995. The extension granted pursuant to Rule 90 expired May 31,
22 1995. Thereafter, the license continued in an "inactive" status,
23 that is, renewed without continuing education, and will expire on
24 November 30, 1996.

25 STATUTES AND REGULATIONS

26 3. At all times material herein, section 5100 of the
27 California Business and Professions Code (hereinafter "Code") has

1 provided in pertinent part that "(a)fter notice and hearing, the
2 Board may revoke, suspend or refuse to renew any permit or
3 certificate" issued by the Board for **unprofessional conduct**,
4 including but not limited to:

5 5100 (c) Dishonesty, fraud, or gross negligence in the
6 practice of public accountancy.

7 5100 (f) Willful violation of the Accountancy Act or any
8 rule or regulation promulgated by the Board.

9 4. Code section 5050 provides in pertinent part that
10 "(n)o person shall engage in the practice of public accountancy
11 in this State unless such person is the holder of a valid permit
12 to practice public accountancy..." and the practice of public
13 accountancy is defined in Code section 5051. Further, Code
14 section 5055 prohibits a person from assuming or using the title
15 "certified public accountant" or the abbreviation "CPA" unless
16 that person has received from the Board a certified public
17 accountant certificate and holds a valid permit to practice under
18 the provisions of Chapter 1, Division 3, of the Code.

19 5. The Board's regulations, codified in Title 16 of
20 the California Code of Regulations^{1/}, require, in section 87(a)
21 that a licensee complete at least 80 hours of qualifying
22 continuing education during every two-year period immediately
23 preceding permit renewal.

24 6. Board Rule 89(a) requires that a licensee submit,
25 with a license renewal, a written statement, signed under penalty

26
27 1. The Board's rules, codified at Title 16 of the
 California Code of Regulations in Sections 1-99, are hereinafter
 referred to as "Board Rule." Thus, Section 89 is Board Rule 89.

1 of perjury attesting to the completion of the requisite number of
2 continuing education hours.

3 Board Rule 89(b) requires that a licensee, in order to
4 receive continuing education credit for attending a continuing
5 education course, obtain and retain for four years after renewal
6 a certificate of completion or its equivalent signed by the
7 course provider, disclosing required information set forth in the
8 rule.

9 Board Rule 89(f) provides, with regard to continuing
10 education, that a licensee's willful making of any false or
11 misleading statement, in writing regarding his or her continuing
12 education shall constitute cause for disciplinary action pursuant
13 to Code section 5100(f) of the Accountancy Act.

14 7. Board Rule 89.1(a) provides that the Board may
15 request licensees, selected on the basis of a statistical
16 sampling, to supply copies of selected financial reports issued
17 during the previous two years.

18 Board Rule 89.1(b) provides that the willful failure of
19 a licensee to comply with the Board's written request for a copy
20 of financial report(s), within 30 calendar days of the licensee's
21 receipt of that request, constitutes a violation of Code section
22 5100(f) of the Accountancy Act.

23 8. Board Rule 90(a) provides that a renewal applicant
24 may be granted either an extension of time to complete continuing
25 education requirements or an exception from continuing education
26 requirements, for the causes stated therein.

27 Board Rule 90(c) provides that the willful failure of a

1 licensee to complete applicable continuing education within a
2 specified extension of time shall constitute cause for
3 disciplinary action pursuant to Code section 5100(f) of the
4 Accountancy Act.

5 9. Applicable standards of practice pertinent to this
6 accusation include, without limitation:

7 A. Generally Accepted Auditing Standards ("GAAS"),
8 which standards are discussed, as relevant herein, in the
9 Statements on Auditing Standards ("SAS") codified by the American
10 Institute of Certified Public Accountants (AICPA). The
11 statements are codified by AU number. The sections pertinent
12 herein include, without limitation: AU § 150.02; AU § 230
13 (230.01-.04); AU § 311.03; AU §§ 319.26 & 319.39; AU §§ 329.01 -
14 329.04; AU § 333.01; AU §§ 337.04 - 337.05; and AU § 339.05.

15 B. Industry audit and accounting standards which are
16 discussed in the Audit and Accounting Guide for Common Interest
17 Realty Associations (AAG-CIR) issued by the AICPA. The sections
18 pertinent herein include, without limitation, AAG-CIR §§ 4.30-
19 4.31 and 7.40.

20 10. Code section 5107 provides for recovery by the
21 Board of **all reasonable costs of investigation and prosecution of**
22 **the case, including, but not limited to, attorney's fees in**
23 **specified disciplinary actions, including alleged violations of**
24 **Code section 5100(c).** A certified copy of the actual costs, or a
25 good faith estimate of costs signed by the Executive Officer,
26 constitute prima facie evidence of reasonable costs of
27 investigation and prosecution of the case.

1 11. Pursuant to Code section 118(b), the suspension,
2 expiration, or forfeiture by operation of law of a license issued
3 by the Board shall not during any period within which it may be
4 renewed, restored, reissued or reinstated, deprive the Board of
5 its authority to institute or continue a disciplinary proceeding
6 against the licensee upon any ground provided by law or to enter
7 an order suspending or revoking the license or otherwise taking
8 disciplinary action against the licensee on any such ground.
9 Code section 5070.6 provides that an expired permit may be
10 renewed at any time within five years after its expiration upon
11 compliance with certain requirements.

12 **FOR CAUSES FOR DISCIPLINE**

13 **Mariners' Plaza Office Condominium Association Audit**

14 12. Respondent performed an audit for Mariners' Plaza
15 Office Condominium Association ("Mariners'") as of December 31,
16 1994 and 1993 and issued an unqualified audit opinion on
17 Mariners' financial statements. Respondent is subject to
18 disciplinary action under Code section 5100 because the audit she
19 performed contained departures from the standard of practice of
20 public accountancy, including, but not limited to, the following:

21 A. The auditor failed to plan the audit, and/or
22 failed to document any planning of the audit, by failing to plan
23 or to include in her documentation an audit program and her
24 knowledge of the entity's business; her planned assessment of
25 control risk; and/or her preliminary judgments about materiality
26 levels. (Reference AU § 150.02; AU § 311.03; AU § 339.05.)

27 B. The auditor failed to obtain, and/or failed to

1 document in her work papers, her understanding of internal
2 control structure and the assessed level of control risk.
3 (Reference AU § 319.26; AU § 319.39.)

4 C. The auditor failed to obtain sufficient competent
5 evidential matter to afford a reasonable basis for an opinion
6 regarding the financial statements under audit. The workpapers
7 reveal virtually no evidence that any of the client-prepared
8 trial balances were audited. (Reference AU § 150.02; AU §
9 339.05.)

10 D. The auditor failed to perform analytical
11 procedures in the planning and overall review stages of her
12 audit. (Reference AU § 329.01-.04.)

13 E. The auditor failed to obtain and include in her
14 working papers a representation letter from management.
15 (Reference AU § 333.01.)

16 F. The auditor failed to obtain and include in her
17 working papers an inquiry of client's lawyer concerning
18 litigation, claims, and assessments. (Reference AU § 337.04-.05.)

19 G. The auditor failed to exercise due professional
20 care in that she did not meet the three standards of field work
21 that require planning; an understanding of internal control; and
22 sufficient competent evidential matter. (Reference AU § 230.01-
23 .04.)

24 H. The auditor failed to modify the report for
25 deficiencies in the financial statement presentation and
26 disclosure, in that the financial statements do not present
27 unaudited supplemental information required by AAG-CIR

§§ 4.30-4.31 and 7.40.

13. Incorporating by reference the facts alleged in paragraph 12 above, cause for discipline exists because respondent was grossly negligent in her performance of the audit in violation of Code section 5100(c) in that the deficiencies constitute an extreme departure from applicable standards.

14. Incorporating by reference the facts alleged in paragraph 12, subparagraph H above, cause for discipline exists insofar as said conduct violates Code section 5062, in that respondent failed to issue a report which conforms to professional standards upon completion of an audit of financial statements.

58 El Camino Condominium Association

15. Respondent performed an audit for 58 El Camino Condominium Association ("El Camino") as of December 31, 1994 and 1993. Respondent is subject to disciplinary action under Code section 5100 because the audit she performed contained departures from applicable standards, including, but not limited to, the following:

A. The auditor failed to plan the audit, and/or failed to document any planning of the audit, by failing to plan or to include in her documentation an audit program and her knowledge of the entity's business; her planned assessment of control risk; and/or her preliminary judgments about materiality levels. (Reference AU § 150.02; AU § 311.03; AU § 339.05.)

B. The auditor failed to obtain, and/or failed to document in her work papers, her understanding of internal

1 control structure and the assessed level of control risk.

2 (Reference AU § 319.26; AU § 319.39.)

3 C. The auditor failed to obtain sufficient competent
4 evidential matter to afford a reasonable basis for an opinion
5 regarding the financial statements under audit. The workpapers
6 reveal virtually no evidence that any of the client-prepared
7 trial balances were audited. (Reference AU § 150.02; AU §
8 339.05.)

9 D. The auditor failed to perform analytical
10 procedures in the planning and overall review stages of her
11 audit. (Reference AU § 329.01-.04.)

12 E. The auditor failed to obtain and include in her
13 working papers a representation letter from management.
14 (Reference AU § 333.01.)

15 F. The auditor failed to obtain and include in her
16 working papers an inquiry of client's lawyer concerning
17 litigation, claims, and assessments. (Reference AU § 337.04-.05.)

18 G. The auditor failed to exercise due professional
19 care in that she did not meet the three standards of field work
20 that require planning; an understanding of internal control; and
21 sufficient competent evidential matter. (Reference AU § 230.01-
22 .04.)

23 H. The auditor failed to modify the report for
24 deficiencies in the financial statement presentation and
25 disclosure, in that the financial statements do not present
26 unaudited supplemental information required by AAG-CIR §§ 4.30-
27 4.31 and 7.40.

1 16. Incorporating by reference the facts alleged in
2 paragraph 15 above, cause for discipline exists because
3 respondent was grossly negligent in her performance of the audit
4 in violation of Code section 5100(c) in that the deficiencies
5 constitute an extreme departure from applicable standards.

6 17. Incorporating by reference the facts alleged in
7 paragraph 15, subparagraph H above, cause for discipline exists
8 insofar as said conduct violates Code section 5062, in that
9 respondent failed to issue a report which conforms to
10 professional standards upon completion of an audit of financial
11 statements.

12 **FOR FURTHER CAUSES FOR DISCIPLINE**

13 **Continuing Education - 1992/1994**

14 18. Respondent is subject to disciplinary action
15 pursuant to Code section 5100(f) in conjunction with Board Rules
16 87 and 89 in that she renewed her license for the period
17 1992/1994 in February 1995, accompanied by a statement signed
18 under penalty of perjury on February 21, 1995, that she had
19 completed 82 hours for the renewal period ended and that she
20 would maintain verification records related thereto for a period
21 of four years.

22 19. Incorporating by reference the allegations in
23 paragraph 18, respondent has subjected her certificate to
24 disciplinary action pursuant to Code section 5100(f) in
25 conjunction with Board Rule 89(b) in that she failed to maintain
26 the required records in violation of said rule.

27 20. Incorporating by reference the allegations in

1 paragraph 18, respondent has subjected her certificate to
2 disciplinary action pursuant to Code section 5100(f) in
3 conjunction with Board Rule 89(f) in that she made a false
4 statement regarding her continuing education by promising to
5 maintain said records and failing to do so.

6 Continuing Education - 1994/1996

7 21. Incorporating by reference the matters alleged in
8 paragraph 2 above, respondent is subject to disciplinary action
9 pursuant to Code section 5100(f) in conjunction with Board Rule
10 90(c) in that she failed to complete 80 hours of applicable
11 continuing education for her 1994/1996 renewal period, having
12 been granted an extension (from December 1, 1994 to May 31, 1995)
13 to do so.

14 Failure to Provide Information to Board

15 22. In 1988/89, respondent was selected to submit an
16 audit report and financial statements for review under the
17 provisions of Board Rule 89.1. As a follow-up to that process,
18 which found deficiencies in respondent's submissions and rated
19 them "Substandard," the respondent was requested to submit the
20 subsequent year's financial report.

21 During the period December 12, 1989 through April 30,
22 1991, respondent was notified in writing on five separate
23 occasions to submit the subsequent year's audit report and
24 financial statements for review. No response was forthcoming
25 from the licensee until April 30, 1991. This review found the
26 submissions "Marginal." Sixteen hours of continuing education
27 related to financial statement disclosures were recommended.

1 Respondent was again requested, beginning in August
2 1992, and continuing until April 1993, to submit another audit
3 report and financial statements for review. No response was
4 received by the Board to its two written notices to the
5 respondent.

6 23. Incorporating by reference the matters alleged in
7 paragraph 22 above, respondent is subject to disciplinary action
8 pursuant to Code section 5100(f) in conjunction with Board Rule
9 89.1 in that she failed to respond to the Board's two written
10 requests, between August 1992 and April 1993, for her to submit
11 an audit report and financial statements for review pursuant to
12 Board Rule 89.1.

13 Unauthorized Practice

14 24. Incorporating by reference the allegations in
15 paragraphs 2, 12 and 15, respondent has subjected her certificate
16 to disciplinary action pursuant to Code section 5050 in
17 conjunction with Code sections 5051, 5055 and 5100(f) in that,
18 during the period of time from December 1, 1992 to February 22,
19 1995, respondent practiced accountancy within the meaning of Code
20 section 5051 during a period of time when her license was
21 expired, on occasions known to respondent but unknown to the
22 complainant, except that the complainant is aware of the audit
23 reports referenced in paragraphs 12 and 15, which were issued in
24 April 1994.

25 25. Incorporating by reference the matters alleged in
26 paragraph 24, cause for discipline of respondent's certificate
27 exists pursuant to Code section 5100(f) in conjunction with Board

1 Rule 87(a), which requires that a licensee shall not engage in
2 public practice unless the licensee has completed the required
3 continuing education and submitted the required statement
4 attesting thereto.

5 OTHER MATTERS

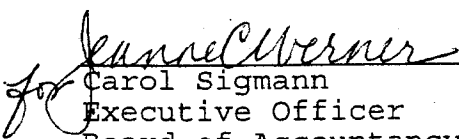
6 26. Pursuant to Code section 5107, it is requested
7 that the administrative law judge, as part of the proposed
8 decision in this proceeding, direct respondent to pay to the
9 Board all reasonable costs of investigation and prosecution in
10 this case, including, but not limited to, attorneys' fees.

11 PRAYER

12 WHEREFORE, complainant requests that the Board hold a
13 hearing on the matters alleged herein, and that following said
14 hearing, the Board issue a decision:

- 15 1. Revoking or suspending Certified Public Accountant
16 Certificate Number 35852, heretofore issued to
17 respondent Mary M. Leal;
18 2. Awarding the Board costs as provided by statute;
19 and
20 3. Taking such other and further action as the Board
21 deems proper.

22 DATED: July 30, 1996

23 
24 for Carol Sigmann
25 Executive Officer
26 Board of Accountancy
27 Department of Consumer Affairs
State of California

Complainant

JCW:pam (7/30/96)